

1.b. Missing Persons Act:

The Act was a wartime statute recently extended until 1 February 1974. The basic purpose of the Act was to establish basic authority and prescribe orderly procedures to provide for the pay and allowances of Government employees (including military personnel) who were missing in action, prisoners of war interned in neutral countries, etc. The Act permitted continuance of pay and allowances under certain circumstances and further provided for orderly review of cases, granting the heads of the departments concerned the authority either to continue the case or to make a determination of death. The authority conveyed in the Act permitted proper payment of amounts to allottees or dependents and, upon finding a death, permitted payment of death gratuities and death benefits. Since the Act has an expiration date, efforts by other departments to continue the Act should be monitored to assure that continuing protection is provided for employees of CIA.

Recommendation: That the Office of the General Counsel be assigned continuing responsibility on this matter to monitor action by other departments in the Congress and, if necessary, to prepare legislation for CIA. That Office should report periodically to the Career Service Board on recent developments and coordinate any proposed legislation for CIA throughout the Agency.

1.e. This item has been listed in the memorandum of 26 June 1953 as "Application of the principles of the United States Employees' Compensation Act to dependents of employees engaged in hazardous duties who are themselves exposed to hazard." This subject is related to the item J.f. entitled "Medical Benefits." Subsections 1. and 2. of that item list medical aid to dependents overseas and transportation of dependents when medical care is required overseas. It is believed that 1.e. should be considered as raising the general question of medical benefits for dependents of employees who are assigned abroad. It is not believed that the limitation of the hazardous duty is pertinent since it is subject to construction in many different ways.

a. An example of the problem involved here would be helpful. In the event an employee of CIA, while stationed contracts malaria, which disease is endemic to the area, CIA could pay for hospitalization costs, medical care, and transportation costs to the nearest hospital under the authority of Public Law 110. Also, at its option, CIA could process the case to the Bureau of Employees' Compensation. If continuing disability were involved the case could be processed to the Bureau of Employees' Compensation. However, if the wife of that employee also contracted malaria, CIA legally could not reimburse the employee for any of the costs involved. STAT

b. Careful consideration should be given whether to apply the standards of the Federal Employees' Compensation Act (FECA) or the standards applicable under Public Law 110. Under FECA the standard is--did the injury or illness occur while in the performance of duty. Under P.L. 110, the standard generally is whether the injury or illness occurred while abroad was not the result of vicious habits, intemperance, or misconduct. Public Law 110 is worded exactly the same in this respect as the Foreign Service Act of 1946.

c. For background information, when CIA was presenting its proposed law

(which is now Public Law 110) to the Bureau of the Budget for clearance, the draft included authorization for payment of medical, hospitalization, and transportation costs connected therewith, for dependents in the same manner as was provided for employees. At that time the Bureau of the Budget requested deletion of dependents on the grounds that no other civilian agency of the Government had such authority and the Bureau of the Budget could not support CIA's position. It is true, of course, that there exists some precedent for medical care of dependents in the military services. Generally, statutory authority for dependents' care in the military is based on permissive statutes which the various services have construed in different ways at different times. Facilities and space available are sometimes used by the services as criteria for medical care of dependents.

d. The hypothetical case above does not indicate merely an academic problem since a great number of cases of similar nature have occurred in the brief history of CIA. On the one hand it could be argued that since CIA sends the employee abroad and pays for the transportation of his dependents abroad, CIA should assume similar responsibilities for the dependents as are assumed for the employee since the hardship on the employee is just as real in either case. On the other hand, it could be argued that CIA sends the employee abroad and the matter of sending the dependents is a question of privilege, with the Government paying the expenses of transportation if the employee desires his dependents with him. Having exercised his choice of having his dependents with him, the risks of illness or injury to the dependents have been assumed.

Recommendation: Taking into consideration all factors, it is recommended that CIA adopt as a goal, the provision of medical care, hospitalization, and transportation costs in connection therewith, for dependents of CIA employees adopting the same standards for eligibility for such benefits as are applicable in the case of CIA employees under Public Law 110. This would require legislation.

1.f. Appropriate and Adequate Leave Systems: The principle item causing difficulties is the lack of accumulation of leave for an employee stationed abroad which he can take when returned to the United States for leave purposes. The ^{Foreign Service of} Department of State basically has the same leave system as all other Government agencies including CIA. However, superimposed on that system is provision for accumulating one week for each four months of service abroad which leave can be used when the employee returns to the U.S. for the purpose of taking leave. The leave cannot be used for any other purposes and is not considered in making lump sum payments for accumulated leave.

There has been some effort by the Department of Defense to secure similar leave benefits for its components. However, no final action has been taken anywhere in Government to obtain similar home leave for anyone other than the Department of State.

Also of concern is the fact that under Public Law 110 there is a provision that travel may not be authorized for leave purposes to an employee assigned abroad unless he has sufficient accumulated annual leave to keep him in a pay status in the United States for thirty days. Under the new leave act it is probable that some employees could not accumulate their required amount of leave in a two year tour of duty. Therefore, it is believed that this provision should be eliminated. Further, if the home leave as indicated above is secured, there would be no necessity for the restriction, so on either ground this provision should be eliminated.

Recommendations: That General Counsel's Office prepare appropriate legislation and be assigned the responsibility for continuing efforts to secure, introduce, and obtain passage of this bill. If CIA comes up with a package Career Service bill, this item should be included. However, if a long delay is anticipated, it is recommended that this specific item be acted upon.